

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

CHRISTOPHER THOMPSON

PLAINTIFF

v.

No. 2:18-CV-02183

UNIVERSITY OF ARKANSAS AT  
FORT SMITH and RAYMOND OTTMAN

DEFENDANTS

**OPINION AND ORDER**

Plaintiff filed a motion (Doc. 18) to dismiss his case without prejudice pursuant to Federal Rule of Civil Procedure 41(a). Defendants filed a response (Doc. 19) in opposition. The motion will be granted.

Rule 41(a)(2) gives the Court discretion to dismiss a case on Plaintiff's motion on terms that the Court considers proper. Rule 41(a)(2) motions should be granted when no other party will be prejudiced, "prejudice" not including the necessity of facing another lawsuit. "That kind of disadvantage can be taken care of by a condition that plaintiff pay to defendant its costs and expenses incurred in the first action." *Kern v. TXO Prod. Corp.*, 738 F.2d 968, 970 (8th Cir. 1984).

Defendants ask for costs in the event of refileing, and also ask the Court to preclude additional discovery in any future action. The Court will not prevent additional discovery in some future lawsuit. Defendants should not have to bear the financial cost of duplicative discovery, however. The Court will grant Plaintiff's motion to dismiss, and will append as a term of dismissal the requirement that Plaintiff will pay any of Defendants' litigation costs and expenses from this lawsuit in the event that Plaintiff files a new lawsuit based on or including the same claims and Defendants incur costs or expenses in the new lawsuit duplicative to those incurred here. The Court will retain jurisdiction to enforce this order.

IT IS THEREFORE ORDERED that the motion to dismiss (Doc. 18) is GRANTED as

stated herein. The Court retains jurisdiction to enforce this order.

IT IS SO ORDERED this 25th day of September, 2019.

/s/ P. K. Holmes, III

P.K. HOLMES, III  
U.S. DISTRICT JUDGE